

Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” ([CVR 04-000-001](#)) adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms and enclosures with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted to the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of Proposed Filing Coversheet will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Improved Tracking of Workplace Injuries and Illnesses

_____/s/ Michael Harrington_____, on 3/7/2024

(signature)

(date)

Printed Name and Title:

Michael Harrington, Commissioner

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Filing Confirmed

1. TITLE OF RULE FILING:

Improved Tracking of Workplace Injuries and Illnesses

2. ADOPTING AGENCY:

Vermont Occupational Safety and Health Administration

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Daniel A. Whipple

Agency: Vermont Occupational Safety and Health
Administration

Mailing Address: P.O. Box 488, Montpelier, VT 05601-0488

Telephone: 802-828-5084 Fax: 802-828-0408

E-Mail: dan.whipple@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://labor.vermont.gov/document/improved-tracking-workplace-injuries-and-illnesses>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Karl P. Hayden

Agency: Vermont Occupational Safety and Health
Administration

Mailing Address: P.O. Box 488, Montpelier, VT 05601-0488

Telephone: 808-828-5085 Fax: 802-828-0408

E-Mail: karl.hayden@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

21 VSA §§204, 224

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

21 VSA §§204, 224, Directs the Vermont Occupational Safety and Health Administration, (VOSHA) to promulgate rules related to the safety and health of Vermont Workers.

8. CONCISE SUMMARY (150 WORDS OR LESS):

OSHA is amending its occupational injury and illness recordkeeping regulation to require certain employers to electronically submit injury and illness information to OSHA that employers are already required to keep under the recordkeeping regulation. Specifically, OSHA is amending its regulation to require establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300 and 301 to OSHA once a year. OSHA will not collect employee names or addresses, names of health care professionals, or names and addresses of facilities where treatment was provided if treatment was provided away from the worksite from the Forms 300 and 301. OSHA intends to post this information - after redacting appropriate personal and medically protected information - on its website accessible by the public.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

OSHA has determined that the data collection will assist the agency in its statutory mission to assure safe and healthful working conditions for working people (see 29 U.S.C. 651(b)). In addition, OSHA has determined that the expanded public access to establishment-specific, case-specific injury and illness data will allow employers, employees, potential employees, employee representatives, customers, potential customers, researchers, and the general public to make more informed decisions about workplace safety and health at a given establishment. OSHA believes that this accessibility will ultimately result in the reduction of occupational injuries and illnesses.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13)(A):

This rule was previously adopted by Federal OSHA. VOSHA, as part of the agreement allowing full jurisdiction, as a state plan state, has agreed to maintain programs at least as effective as OSHA. By this agreement VOSHA is compelled to adopt the amended standard or a more affective standard as well.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

This rule affects non-federal establishments with 100 or more employees in certain designated industries to electronically submit information from their OSHA Forms 300 and 301 to OSHA once a year. This rule is in addition to, and does not affect the following: Establishments with 20 to 249 employees in certain industries will continue to be required to electronically submit information from their OSHA Form 300A annual summary to OSHA once a year. All establishments with 250 or more employees that are required to keep records under OSHA's injury and illness regulation will also continue to be required to electronically submit information from their Form 300A to OSHA on an annual basis.

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

OSHA estimates that this rule will have economic costs across the complete spectrum of mandated reporters, of \$7.7 million per year. These costs include \$7.1 million per year to become familiar with the rule's requirements, update software, and submit forms electronically to OSHA, and \$0.6 million per year to the government for processing the data, updating and maintaining software, and providing additional IT support. OSHA estimates average costs of \$136 per year for affected establishments (those with 100 or more employees in NAICS industries listed on appendix B of subpart E of part 1904), annualized over 10 years with a discount rate of seven percent.

13. A HEARING WILL BE SCHEDULED.

IF A HEARING WILL NOT BE SCHEDULED, PLEASE EXPLAIN WHY.

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date: 4/29/2024
Time: 10:00 AM
Street Address: 5 Green Mountain Drive, Montpelier, VT
Zip Code: 05601
URL for Virtual: https://teams.microsoft.com/l/meetup-join/19%3ameeting_ODEzMTJjODYtYjZhZi00MWUxLThkNmQtY2IyMzJlOGVhYjdm%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%22c288a691-5458-46ff-b616-bea179cbb066%22%7d

Date:
Time: AM
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Date:
Time: AM
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15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING): 5/10/2024

16. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

VOSHA 1904 updates

Improvements in Recordkeeping

Reporting OSHA 300 and 301

Recordkeeping updates

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Improved Tracking of Workplace Injuries and Illnesses

2. ADOPTING AGENCY:

Vermont Occupational Safety and Health Administration

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

SOS Log #21-002 February 24, 2021, 29 CFR 1904, UPDATES AND IMPROVEMENTS IN RECORDKEEPING

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

This rule will affect private and public sector employers of 100 or more employees, in certain, designated NAICS codes. OSHA estimates that this rule will have economic costs - nationally - across the complete spectrum of mandated reporters, of \$7.7 million per year. These costs include \$7.1 million per year to become familiar with the rule’s requirements,

update software, and submit forms electronically to OSHA, and \$0.6 million per year to the government for processing the data, updating and maintaining software, and providing additional IT support. OSHA estimates average cost increase for recordkeeping, of \$136 per year for affected establishments (those with 100 or more employees in NAICS industries listed on appendix B of subpart E of part 1904), annualized over 10 years with a discount rate of seven percent.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

Schools will not be affected in by this rule as they do not fall into the designation of NAICS codes that compel reporting of this data.

5. ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.

As this rule is identical to the adopted rule from Federal OSHA, and VOSHA must remain equally effective, no alternative was considered.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

Businesses and public sector entities, of less than 100 employees will not be affected by this rule

7. SMALL BUSINESS COMPLIANCE: EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.

Businesses with less than 100 employees would not be affected by this rule.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

No other alternatives were considered

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This rulemaking was thoroughly analyzed and documented through the process of federal rulemaking. A complete description of these analyses' can be found in Federal Register / Vol. 88, No. 139 / Friday, July 21, 2023 / Rules and Regulations

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

This rule has no effect on greenhouse gas.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

This rule has no effect on water

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

This rule has no effect on land

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*

This rule has no effect on recreation

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

This rule has no effect on climate

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

This rule is strictly administrative and complying with it will be accomplished through electronic means. Therefore there is no effect on the environment.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This rule was analyzed at the federal level and was documented in the Federal Register / Vol. 88, No. 139 / Friday, July 21, 2023 / Rules and Regulations

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Improved Tracking of Workplace Injuries and Illnesses

2. ADOPTING AGENCY:

Vermont Occupational Safety and Health Administration

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

This rule was previously developed and promulgated through the federal system by Federal OSHA. All of the steps and analysis have been documented in Federal Register / Vol. 88, No. 139 / Friday, July 21, 2023 / Rules and Regulations. VOSHA will alert industry groups such as Associated Industries of Vermont and Associated Contractors of Vermont. Additionally VOSHA will be putting notice of this rule on it's website as well as periodicals of note.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

VOSHA will place notices on the list serv of Vermont Project WorkSafe. Additionally will place the rule on the Vermont Department of Labor web site. VOSHA plans to hold a public hearing for this rule as well.

Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

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2. ADOPTING AGENCY:

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3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

This rule filing incorporates by reference all of 29 CFR 1904 - RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

29 CFR 1904

5. OBTAINING COPIES: (*EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

Copies of this standard can be obtained by accessing the OSHA website at <https://www.osha.gov/laws-regs/regulations/standardnumber/1904/>. The rule can be reviewed in person at Vermont Department of Labor, 5 Green Mountain Drive, Montpelier, VT

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

This rule filing amends former language; 24 050 016. 29 CFR 1904, UPDATES AND IMPROVEMENTS IN RECORDKEEPING. This amendment is identical to a previous adoption by Federal OSHA. VOSHA must adopt rules at least as effective as Federal OSHA.

Run Spell Check